REMARKS/ARGUMENTS

Rejections under 35 U.S.C. §102

The Examiner rejects claim 22 under 35 U.S.C. §102(b) as being anticipated by Fawwaz et al., J. Nuclear Medicine, Proc. Of the 36th Annual Meeting, vol. 30 p. 935-936 (1989). In support of this rejection, the Examiner provides the cited pages, which contain an abstract of the paper in question. Applicant respectfully disagrees with Examiner's assessment of the reference.

With careful attention to said abstract, Examiner will note that the compound described in the Official Action as an 'intercalating agent,' namely, CPSP, is identified in the reference as a chelator. The terms are not synonymous. A chelator is a molecule that binds two or more ions, such as, for example, metal ions. CPSP is described in the reference as being able to bind firmly both Mn and Mab. Thus, CPSP is a bifunctional chelator in that one portion of the CPSP molecule is able to bind to Mn, while the other portion is able to bind to Mab. A complex is therefore formed.

An intercalating agent, on the other hand, is a chemical substance that has a structure such that it can insert itself in between adjacent nucleotides of a DNA molecule. Not only does claim 22 of the present application specifically require an intercalating agent, it specifically requires an intercalating moiety with an affinity for double-stranded DNA. There is nothing in the reference cited by the Examiner to indicate or suggest that CPSP is able to function as an intercalating agent, nor is there anything to indicate that, even if it were to function as an intercalating agent, is has an affinity for double-stranded DNA. Thus, Applicant respectfully

requests that this rejection be withdrawn, as the cited reference clearly does not disclose each and every element of claim 22 of the present invention.

Rejections under 35 U.S.C. §103(a)

The Examiner rejects claims 25-26 under 35 U.S.C. §103(a) as being unpatentable over Fawwaz et al., J. Nuclear Medicine, Proc. Of the 36th Annual Meeting, vol. 30 p. 935-936 (1989). Applicant respectfully disagrees.

This rejection suffers from the same deficiency as the rejection under 35 U.S.C. §102, discussed above, namely, the erroneous identification of CPSP as an intercalating agent rather than a chelator. Applicant hereby incorporates by reference the arguments made with respect to the rejection under §102, above. Because the cited reference neither teaches nor suggests the use of an intercalating agent, and, specifically, neither teaches nor suggests the use of an intercalating moiety having a binding affinity for double-stranded DNA, Applicant respectfully submits that claims 25 and 26 are patentable over the cited reference. Applicant respectfully requests that the rejection be withdrawn.

The Examiner rejects claims 22, 25 and 26 under 35 U.S.C. 103(a) as being unpatentable over WO 93/21957. Applicant has amended claims 22 and 25. Both claims now incorporate at least one pharmacetically acceptable excipient. It is Applicant's view that these claims are now patentable over the cited prior art. Claim 26 has been canceled.

The Examiner rejects claim 22, 25 and 26 under 35 U.S.C. 103(a) as being unpatentable over Mercer-Smith et al. in view of WO 93/21957. Applicant has amended claims 22 and 25.

Both claims now incorporate at least one pharmacetically acceptable excipient. It is Applicant's view that these claims are now patentable over the cited prior art. Claim 26 has been canceled.

The Examiner rejects claims 22, 25 and 26 under 35 U.S.C. 103(a) as being unpatentable over WO 93/21957 in view of applicant's admission on page 2-4 of the specification. Applicant has amended claims 22 and 25. Both claims now incorporate at least one pharmacetically acceptable excipient. It is Applicant's view that these claims are now patentable over the cited prior art. Claim 26 has been canceled.

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